IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2883 of 1999
Date of decision:

Satnam Singh and others ...Petitioners

Versus

Ludhiana Improvement Trust, Ludhiana and others
...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present:- Mr. M.L. Sarin, Senior Advocate with
Mr. Hemant Sarin, Advocate, for the
petitioners.

Mr. H.S. Bakshi, Advocate, for the
Improvement Trust, Ludhiana.

Mr. J.S. Puri, Advocate, for
respondents no. 4 to 6.

Mr. Arun Palli, Senior Advocate with
Mr. Jai Bhagwan, Advocate.

K.S.GAREWAL, J.

Ajaib Singh owned 1 bigha 19 biswas (4552 square yards) in a Ludhiana suburb known as Noor Bhaini, which gradually came to be absorbed in the expansion of Ludhiana city. Ajaib Singh built a house on this property in 1962 but he died in 1963. The house existed on about 600

square yards, which was a part of the main property. Ajaib Singh had seven children, Satnam Singh, Inderjit Kaur, Charanjit Kaur, Harminder Singh, Madan Pal Singh, Gurjit Kaur and Manjit Kaur. Harminder Singh had two sons Mohinder Partap Singh and Gurpartap Singh. Six children of Ajaib Singh and two grand sons are the eight petitioners in this petition.

In 1975, Ludhiana Improvement Trust framed a scheme known as "Six Acres Development Scheme North of Preet Palace Cinema" (hereinafter referred as **"the Scheme"**). As the name of the scheme implies, it was for the development of six acres and it included 4552 square yards belonging to the petitioners which also included the built up house.

Ajaib Singh's widow Vidwan Kaur and others filed CWP 3296 of 1979 before this Court, which was disposed of by the Division Bench on November 6, 1979. Since lot of argument has centered around the true meaning of the order passed by the Division Bench on November 6, 1979, the operative part of the order deserves to be re-produced in toto.

> "....It has been undertaken in the return that in the re-housing scheme a plot will be given to the legal heirs of Ajaib Singh for being re-housed. The only other grievance of the petitioners is that the recommendation of the Trust wherein the Trust recommended for granting the exemption of the house of the petitioner, has not been decided by the Government. We direct that the Government may decide the said matter and in case the recommendation of the Trust is accepted, the legal heirs of Ajaib Singh will not be entitled to the plot in the re-housing scheme. This petition is disposed of accordingly"
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> According to the petitioners, they are entitled to be treated as

local displaced persons (LDP) because their land had been acquired. The petitioners are also certainly entitled to be re-housed as their house was also acquired. These are two independent and distinct reliefs under two different provisions.

At the outset it must be recorded that in CWP 3296 of 1979 the petitioners had not sought any relief as LDPs but had received an undertaking from the Improvement Trust that in the re-housing scheme a plot shall be given to the heirs of Ajaib Singh for being re-housed.

The other grievance of the petitioners in 1979 was that the Trust had recommended exemption of the petitioners' house but this recommendation had not been decided by the Government, therefore, the Bench directed that the Government should decide the matter and in case the recommendation was accepted, Ajaib Singh's heirs shall not be entitled to a plot in the re-housing scheme.

According to the petitioners, neither has their house been exempted inspite of the recommendation of the Improvement Trust, nor a plot in lieu of the compulsorily acquired house has been given to the petitioners for being re-housed.

The petitioners had specifically pleaded their offer in paragraph 9 of the petition to the effect that if they were allotted plots (in lieu of the acquired house) as local displaced persons they will not file a claim for exemption for the house and implementation of the direction of the Division Bench. It was further pleaded that they would demolish the house within 180 days from the date of sanction of the plan for the construction. The petitioners categorically stated that this offer had been unanimously accepted by the Trust in resolution 28 dated May 7, 1980.

Contrary to the said resolution, the Trust after 19 years illegally issued a notice on February 23, 1999 asking the petitioners to vacate the house before March 9, 1999 failing which the possession would be forcibly taken with the help of the police. The petitioners came back to this Court to challenge the aforesaid notice which has been annexed as Annexure P/2.

At this stage, it would be appropriate to examine how the matter was actually dealt with by the Trust on May 7, 1980. The resolution of the Trust is Annexure P/1. Under item 28, the report of the Superintendent (Lands) was re-produced, to the effect that Vidhwan Kaur, Harminder Singh, Satnam Singh, Madan Pal Singh, Inderjit Kaur, Gurjit Kaur and Charanjit Kaur (legal heirs of Ajaib Singh deceased) have given in writing that if the Trust agrees to give them plots as local displaced persons, they will not insist on the implementation of the High Court order nor would they claim exemption for the built-up house. It has further been recorded that the petitioners were ready to hand over immediately the possession of the land included in the enclosure of the house.

The Trust unanimously approved that, under the Utilization of Land and Allotment of Plots Rules, 1975, the heirs entered in the proposal, be allotted plots as local displaced persons in accordance with their entitlement. It was further resolved that the earlier resolution dated April 27, 1977, by which it was decided to grant exemption, be recalled.

At the hearing, the record of the Improvement Trust was called to see the written offer of the petitioners mentioned in the resolution because everything depended upon what exactly the petitioners had offered to give up. The written document was not available on the record but if the pleadings in paragraph 9 of the petition are carefully examined, it would be

discovered that the petitioners had specifically pleaded the offer made by them and its unanimous acceptance.

The petitioners are now trying to separate their entitlement. Firstly, for plots in lieu of the land. Secondly, for a plot for being re-housed in lieu of the house.

The Improvement Trust has defended its action by pleading that it had allotted seven plots to Ajaib Singh's children and heirs on the basis of the said resolution, letters of allotment were issued to the allottees on May 20, 1980. As per the rules, the petitioners were only entitled to one plot but seven plots were allotted to them. These facts had been deliberately suppressed by the petitioners.

Furthermore, the plots were allotted after the petitioners had undertaken that they would not press their claim. They had also undertaken that they would deliver possession of the built-up house within 180 from the date of the sanction of the plan.

At this stage, it may also be mentioned that Manjit Kaur, the 7th child of Ajaib Singh, also sought allotment of a plot in her favour in CWP 7287 of 1998.

The petitioners cannot benefit twice, first by getting plots in lieu of the acquired land and then by getting a plot in lieu of the acquired house. It is very clear that in acquisition proceedings land includes all that exists on it or is permanently affixed to it, like trees, superstructure etc. It was the petitioners' land plus house that was acquired and they are entitled to compensation. The petitioners were entitled to be re-housed and for this they were given seven plots. Can anyone even dream of more ? The undertaking given by the Trust in this Court in 1979 was fully and

completely complied with in 1980. At that stage, there were only seven petitioners and each of them was given a plot. It is a matter of fact that seven plots ranging from 250 to 290 square yards, a total area of 2220 square yards, were given to the petitioners at the reserved price. In addition to this, the petitioners got compensation under the law applicable to acquisition of property by the Improvement Trust.

Since the petitioners had got the full benefit of the undertaking given by the Improvement Trust in 1979 and had also made an unqualified offer that they would remove the superstructure after demolishing it within 180 days from the date of the sanction of the plan, there is hardly any merit in this petition.

Dismissed.

Manjit Kaur's petition is also dismissed since she was never a party to the proceedings in 1979 and had never joined her siblings in 1980 when plots were allotted to them. Manjit Kaur's petition for claiming a plot is highly belated.

Dismissed.

October 10, 2007 **(K.S. GAREWAL)**
prem **JUDGE**